

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Robert G. Taub

Oak Hill Post Office  
Oak Hill, Alabama

Docket No. A2011-97

ORDER AFFIRMING DETERMINATION

(Issued January 17, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

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<sup>1</sup> United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 28, 2011, David Fuller, John Dale, and Juliette Bullock, signing as Patrons of the Oak Hill Post Office (Petitioners) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Oak Hill, Alabama post office (Oak Hill post office).<sup>2</sup> The Final Determination to close the Oak Hill post office is affirmed.

## II. PROCEDURAL HISTORY

On September 30, 2011, the Commission established Docket No. A2011-97 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>3</sup>

On October 13, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>5</sup>

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<sup>2</sup> Petition for Review received from Patrons of the Oak Hill Post Office regarding the Oak Hill, Alabama post office 36766, September 28, 2011 (Petition). On November 2, 2011, the Commission received a letter from Concerned Citizens of Oak Hill, Alabama Regarding the Oak Hill AL Post Office 36766, containing 33 signatures.

<sup>3</sup> Order No. 890, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

<sup>4</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Oak Hill, Alabama Post Office and Continue to Provide Service by Independent Post Office (Final Determination). On December 15, 2011, the Postal Service filed an Addendum to the Administrative Record (Addendum), to clarify details of the posting of the Final Determination in light of the closing of a local post office identified as an alternate access site, the McWilliams post office.

<sup>5</sup> United States Postal Service Comments Regarding Appeal, November 22, 2011 (Postal Service Comments). On December 15, 2011, The Postal Service filed a Notice of Filing Errata which contained updated comments.

Petitioners filed a participant statement supporting their Petition.<sup>6</sup> On December 7, 2011, Petitioners filed a reply brief.<sup>7</sup> On December 7, 2011, the Public Representative also filed a reply brief.<sup>8</sup> Petitioners also filed Supplemental Comments on January 3, 2012.<sup>9</sup>

### III. BACKGROUND

The Oak Hill post office provides retail postal services and service to 66 post office box customers. Final Determination at 2. No delivery customers are served through this post office. *Id.* The Oak Hill post office, an EAS-55 level facility, has retail access hours of 6:30 a.m. to 1:45 p.m., Monday through Friday, and 8:30 a.m. to 1:45 p.m. on Saturday. *Id.* Lobby access hours are 24 hours per day, 7 days per week. *Id.*

The postmaster position became vacant on November 1, 2010 when the Oak Hill postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 31 transactions daily (29 minutes of retail workload). Post office receipts for the last 3 years were \$18,410 in FY 2008; \$20,028 in FY 2009; and \$12,890 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$37,806 annually. *Id.* at 12.

After the closure, retail services will be provided by the Pine Apple post office located approximately 7 miles away.<sup>10</sup> Delivery service will be provided by rural carrier

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<sup>6</sup> Participant Statement, November 3, 2011 (Participant Statement).

<sup>7</sup> Reply Brief of David Fuller, Mayor, John Dale, Town Council, and Juliette Bullock, December 7, 2011 (Petitioner Reply Brief).

<sup>8</sup> Reply Brief of the Public Representative, December 7, 2011 (PR Reply Brief).

<sup>9</sup> Supplemental Comments of the Petitioners, January 3, 2012 (Supplemental Comments). The Petitioners also filed a Motion to Supplement Comments on the same day. Motion to Supplement Comments, January 3, 2012. That motion is granted.

<sup>10</sup> *Id.* at 2. MapQuest estimates the driving distance between the Oak Hill and Pine Apple post offices to be approximately 6.97 miles (9 minutes driving time).

through the Pine Apple post office. The Pine Apple post office is an EAS-13 level office, with retail hours of 8:00 a.m. to 3:00 p.m., Monday through Friday, and 8:30 a.m. to 3:30 p.m. on Saturday. Eighty-three post office boxes are available. *Id.* The Postal Service will continue to use the Oak Hill name and ZIP Code. *Id.* at 7, Concern No. 1.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners, the Mayor of Oak Hill and Town Council members writing on behalf of the town, oppose the closure of the Oak Hill post office. Petitioners contend that closing the Oak Hill post office would destroy the town altogether. Petition at 1. Petitioners assert that the alternative cost saving measures they presented to the Postal Service, including reducing the post office's hours and negotiating a reduced rent, offered reasonable alternates to closure. *Id.* They state that the Oak Hill post office is strategically located at a crossroads and serves a larger community. *Id.* at 3. See *also* Participant Statement at 1-3.

Petitioners are concerned both with the inferior level of service provided by rural carrier compared to the service provided at a post office and about the safety of mail in roadside mailboxes. Petition at 3. They question the Postal Service's calculation of economic savings given that the Postal Service has signed a "non-revocable 5-year lease." *Id.* at 4. They maintain that their post office has been chosen for closing simply because it is in a rural area, but that closings disproportionately injure rural areas. Participant Statement at 2. Petitioners contend that Oak Hill is a rural community with many residents that are impoverished, minorities, or elderly. *Id.* at 3. They elaborate that Oak Hill has low literacy rates, and contend the Postal Service has been unfairly targeting such vulnerable rural areas for post office closings. *Id.*

In their supplemental comments, Petitioners contend that the Oak Hill post office meets the criteria of the Postal Service's post office closure moratorium and that the Postal Service improperly calculated operating costs for the Oak Hill post office. Supplemental Comments at 1-3.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Oak Hill post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Oak Hill community; (3) the calculation of economic savings expected to result from discontinuing the Oak Hill post office; and (4) procedural issues. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Oak Hill post office should be affirmed. *Id.* at 16.

The Postal Service explains that its decision to close the Oak Hill post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Oak Hill community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Oak Hill community, economic savings, and effect on postal employees. *Id.* at 5-14.

*Public Representative.* The Public Representative finds that the Postal Service has not complied with its rules regarding notice. PR Reply Brief at 5. He contends that the Proposal and Final Determination were only posted at the Oak Hill post office, not

the Pine Apple post office as well, which is insufficient to satisfy the Postal Service's notice requirement. *Id.* at 6. He questions the Postal Service's calculation of economic savings since the Oak Hill post office employs an OIC at a lower salary than a postmaster. *Id.* at 7. Furthermore, the Postal Service does not state whether the OIC will be reassigned or separated from the Postal Service; if the OIC is reassigned, the Postal Service will not realize any salary savings at all. *Id.* at 7-9. The Public Representative concludes that, for these deficiencies, the Commission should remand the Final Determination to close the Oak Hill post office. *Id.* at 9.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons

served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On January 24, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Oak Hill post office. Final Determination at 2. A total of 85 questionnaires were distributed and 64 were returned. *Id.* On March 16, 2011, the Postal Service held a community meeting to address customer concerns, but did not list the location in the Final Determination. Seventy-one customers attended. *Id.*

The Postal Service posted the Proposal to Close the Oak Hill Post Office with an invitation for comments at the Oak Hill, Pine Apple, and McWilliams post offices from April 11, 2011 through June 12, 2011. *Id.* at 2. The Final Determination was posted at the Oak Hill post office from August 22, 2011 and remains posted due to the appeal. Addendum at 1-2. It was not posted at other affected post offices. The Final Determination will be posted at the Pine Apple post office from December 14, 2011 through January 15, 2012. *Id.* at 1, 3. The McWilliams post office closed on November 18, 2011 and the Final Determination was not posted there. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d). A timely petition for review was filed and, based on the record developed below, the appeal has been adjudicated before the Commission. Under the circumstances, the failure to post the Final Determination at all affected post offices may be fairly characterized as harmless error. Nonetheless, the Postal Service should take care to ensure that both its proposal and Final Determination are posted at all affected post offices consistent with its regulations pertaining to discontinuance review.

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on

postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Oak Hill, Alabama is an unincorporated community located in Wilcox County, Alabama. Administrative Record, Item No. 16. The community is administered politically by Oak Hill. *Id.* Police protection is provided by the Wilcox County Sheriff. Fire protection is provided by the Oak Hill Volunteer Fire Department. The community is comprised of farmers, retirees, the self-employed, teachers and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Oak Hill community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Oak Hill post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 11-12.

Petitioners argue that closing the post office would destroy Oak Hill's rural community identity. Petition at 1. The Postal Service contends that a community's identity derives from the interest and vitality of its residents, who will continue to use its name and ZIP Code. Postal Service Comments at 10-12. The Postal Service also encourages the community to consider setting up a Village Post Office<sup>11</sup> in a local business. Final Determination at 11.

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<sup>11</sup> A Village Post Office is a facility not owned or operated by the Postal Service that offers a limited number of postal services on a contract basis. Typically, a Village Post Office would sell stamps and prepaid Priority Mail Flat Rate boxes. *See* Docket No. N2012-1, Advisory Opinion on Retail Access Optimization Initiative, December 23, 2011, at 107.



Petitioners contend that the Postal Service has been unfairly targeting areas that are rural, impoverished, have low literacy rates and are comprised of minorities and the elderly, such as Oak Hill, for post office closings. Petition at 3.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

*Effect on employees.* The Postal Service states that the Oak Hill postmaster retired on November 1, 2010 and that an OIC has operated the Oak Hill post office since then. Final Determination at 12. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.*; see also Postal Service Comments at 2.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Oak Hill post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on postal services provided to Oak Hill customers. Postal Service Comments at 5. It asserts that customers of the closed Oak Hill post office may obtain retail services at the Pine Apple post office located 7 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Pine Apple post office. The 66 post office box customers may obtain Post Office Box Service at the Pine Apple post office, which has 83 boxes available. *Id.*

For customers choosing not to travel to the Pine Apple post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 3. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners contend that many Oak Hill residents do not have access to transportation and would be unable to travel to the Pine Apple post office. Petition at 3. The Postal Service states that the same services will be available from the rural carrier and it is not necessary to travel to the Pine Apple post office. Postal Service Comments at 5.

Petitioners are concerned about the security of roadside post boxes. Petition at 3. The Postal Service states that customers may place a lock on their mailboxes, but that the Postal Inspection Service reports no incidence of theft or vandalism in the area. Postal Service Comments at 8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$37,805. Final Determination at 12. It derives this figure by summing the following costs: postmaster salary and benefits (\$34,155) and annual lease costs (\$3,650), minus the cost of replacement service (\$0). *Id.*

Petitioners question whether the Postal Service will realize the full amount of its estimated economic savings because the fact that the Postal Service has a “non-revocable five-year lease” that begins on January 1, 2012. Petition at 1. The Postal Service states that the lease term ends on September 12, 2012, but even excluding the annual lease savings of \$3,650, the economic savings does not change much: \$34,155 per year instead of \$37,805. Postal Service Comments at 14.

The Public Representative questions the Postal Service’s calculation of economic savings since the Oak Hill post office employs an OIC at a lower salary than a postmaster and does not specify whether the OIC will be reassigned; if the OIC is reassigned, the Postal Service will not realize any salary savings at all. PR Reply Brief at 7-9.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Oak Hill post office postmaster retired on November 1, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68 United States Postal Service Comments Regarding Appeal, November 2,

2011, at 10. Furthermore, notwithstanding that the Oak Hill post office has been staffed by an OIC for 1 year, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

## VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Oak Hill post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Oak Hill, Alabama post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Oak Hill post office has been operated by an officer-in-charge (OIC), currently a noncareer postmaster relief (PMR), since the former postmaster retired on November 1, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time position.

In addition, the economic analysis identified in the Final Determination does not account for the costs of replacement of rural or contract delivery service for the 66 customers currently provided post office boxes.

There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The Postal Service provided information to customers that the McWilliams post office would provide replacement postal retail service in addition to the administrative receiving office in Pine Apple. This information appeared in the customer notices, the Proposal to Close the Oak Hill post office, and in the Final Determination. Customers were asked for their comments predicated on the availability of replacement service at the McWilliams location. However, the McWilliams post office closed on November 18, 2011, and such replacement service will not be forthcoming. Thus, this was a material error in the Administrative Record, and the Final Determination was therefore arbitrary.

Additionally, I am greatly concerned for the low-income and low-literacy level residents who require assistance with postal transactions and mail currently provided by the Oak Hill post office. The record is not persuasive that these residents will receive adequate replacement service. The Postal Service has not sufficiently considered the effect of such closing or consolidation on the community served by such post office (39 U.S.C. § 404(d)(2)(A)(i)).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing, and perhaps unfair, to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011, to gather evidence and pursue an appeal to the Commission while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Oak Hill, Alabama and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

## DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since November 2010, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Oak Hill post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley